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Review of the efficiency of the administrative and financial functioning of the United Nations

Procurement reform: definition of exigency needs

Report of the Secretary-General

I. Introduction

1. The present report is submitted pursuant to paragraph 18 of General Assembly resolution 54/11 of 29 October 1999, in which the Assembly stated that the definition of exigency as outlined in the report of the Secretary-General (A/C.5/52/46, para. 5) appeared too broad to be of any real value in exercising the required control over the use of exigency. The Assembly urged the Secretary-General to submit a sharper and clearer definition of exigency needs to it at its fifty-fourth session through the Advisory Committee on Administrative and Budgetary Questions.

II. Sharper and clearer definition of exigency

2. A sharper and clearer definition of exigency has been formulated, taking into consideration three factors: (a) exigency is unavoidable in view of the types of activities undertaken by the Organization, in particular with regard to peacekeeping operations; (b) exigency is essentially a management and not a procurement issue; and (c) the responsibility for managing exigency lies with the head of the substantive department. Accordingly, the head of the substantive department must certify that exigency is genuine and unavoidable.

3. In view of the difficulty of identifying all exigent circumstances that would justify an *ex post facto* approval in the procurement process, the Secretariat feels that it is equally important to define the circumstances in which exigency is not warranted.

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III. Conclusion

4. The revised definition of exigency annexed to the present report incorporates all of the above considerations, and the Procurement Manual has been revised to that effect.

Annex

Revised definition of exigency

9.01.02* Exigency

Definition

Exigency shall be defined as "an urgent and compelling need, not resulting from poor planning or from concerns over the availability of funds, that will lead to serious damage, loss or injury to property or persons or to considerable additional expenditure if not addressed immediately".

Application

Waiver from the use of formal invitations to bid or requests for proposal in favour of informal competition or direct negotiation on grounds of exigency shall be permitted for the following situations:

1. When the nature of the circumstance is such that it does not suitably lend itself to the time required for competitive bidding to take place, such as the need to react to sudden onset of a situation;

2. When the Organization would otherwise face serious damage, loss or injury to property or persons or incur considerable additional expenditure.

The head of the department making a requisition for purchase on grounds of exigency must certify that the circumstances meet the above definition.

The above notwithstanding, the Procurement Division should make all attempts to conduct a market survey, to the extent possible, to ensure that the cost of the product or service purchased under such circumstances is reasonable.

Exclusion

Exigency is not an accepted rationale:

1. In situations resulting from any act of delay or omission on the part of the requisitioning office;

2. Where, in the opinion of Chief of the Procurement Division, the additional cost to the Organization arising from a waiver of competitive bidding is likely to disproportionately exceed the implications resulting from competitive bidding. In such a situation, the requisitioning office may appeal to the Assistant Secretary-General for Central Support Services for a final decision.

* Revised 8 September 1999.

Contracts committee review

Because of the extreme conditions attendant upon exigency cases, review by the Local Committee on Contracts and the Headquarters Committee on Contracts is generally conducted on an *ex post facto* basis.